



U.S. Department of Justice
Civil Division

VIA CM/ECF

July 23, 2025

David J. Smith, Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth St. NW
Atlanta, GA 30303

RE: *Cooper v. Attorney General* (No. 22-13893) (oral argument held on October 5, 2023)

Dear Mr. Smith:

We write to inform the Court of a recent Third Circuit opinion addressing a Second Amendment challenge to 18 U.S.C. § 922(g)(3). *See United States v. Harris*, No. 21-3031 (July 18, 2025). In that opinion, the court held that “history and tradition justify § 922(g)(3)’s restrictions on those who pose a special danger of misusing firearms because they frequently use drugs.” Op. 3. In reaching that result, the court cited two “historical cousins” to § 922(g)(3): “regulations on the dangerously drunk and dangerously mentally ill.” Op. 6. The court explained that when “[t]aken together,” those historical analogues “confirm what common sense suggests’: someone who regularly uses mind-altering substances that make him a ‘credible threat to the physical safety of others with a gun’ may be disarmed temporarily until he stops using drugs.” Op. 14 (quoting *United States v. Rahimi*, 602 U.S. 680, 692 (2024)). The court believed, however, that whether the defendant’s “§ 922(g)(3) conviction is constitutional turns on many facts unanswered by the existing record.” Op. 21. The Third Circuit therefore remanded for the district court to engage in fact-finding to determine “how [the defendant]’s drug use affected his mental state and riskiness.” Op. 21.

Sincerely,

/s/ Steven H. Hazel
Steven H. Hazel
Attorney

cc: all counsel (via CM/ECF)

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2025, I electronically filed the foregoing with the Clerk of the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system. Service will be accomplished by the appellate CM/ECF system, except for the following, who will served by mail at the following addresses:

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